

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MIDWEST PROVIDER INSURANCE )  
COMPANY, A Risk Retention Group, )  
                                  )  
Plaintiff(s),                 )  
                                  )  
                                  )  
vs.                            )              Case No. 4:09CV1998 JCH  
                                  )  
                                  )  
SANTONIO MCCOY AND TRINA DIBRILL, )  
                                  )  
                                  )  
Defendant(s).                 )

**ORDER**

This matter is before the Court on Plaintiff's Motion to Stay Proceedings or, in the Alternative, Motion for Clerk's Entry of Default Judgment, filed February 16, 2010. (Doc. No. 11). By way of background, Plaintiff Midwest Provider Insurance Company ("MPIC"), a Risk Retention Group, filed its Complaint for Declaratory Judgment in this matter on December 4, 2009. (Doc. No. 1). In its Complaint, MPIC seeks a declaratory judgment that it has no duty to defend or indemnify Defendant Santonio McCoy in an underlying lawsuit brought on behalf of Defendant Trina Dibrill in this district. (*Id.*, PP. 7-8).

In an Order entered January 27, 2010, United States District Judge Donald J. Stohr dismissed the underlying lawsuit. (Cause No. 4:09CV764 DJS, Doc. No. 48).<sup>1</sup> On February 16, 2010, MPIC filed the instant motion, requesting that the Court stay this matter for at least thirty days, pending both the expiration of the time for filing a notice of appeal of Judge Stohr's Order of Dismissal<sup>2</sup>, and

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<sup>1</sup> Judge Stohr dismissed Counts I, II, and VII of Plaintiff Trina Dibrill's Second Amended Complaint with prejudice, and all remaining counts without prejudice.

<sup>2</sup> The time for filing a notice of appeal has now expired.

an anticipated refiling of the claims dismissed without prejudice in Missouri state court. Upon consideration, the Court will deny MPIC's request.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Stay Proceedings (Doc. No. 11) is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff is granted until Friday, March 19, 2010, within which to show cause why its Complaint in this matter should not be dismissed as moot.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Clerk's Entry of Default Judgment (Doc. No. 11) is **DENIED** without prejudice.

Dated this 10th day of March, 2010.

/s/ Jean C. Hamilton  
UNITED STATES DISTRICT JUDGE